

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA

NOTE:— There is one Extraordinary issue to the Official Gazette, Series I No. 18 dated 3-8-95 namely, Extraordinary dated 3-8-95 from pages 187 to 190 regarding Notification from Law (Legal and Legislative Affairs) Department.

### GOVERNMENT OF GOA

Revenue Department

#### Notification

13/1/86-RD

The following draft amendment which is proposed to be made to the Goa, Daman and Diu Land Revenue (Assessment and Settlement of Land Revenue of Agricultural Lands) Rules, 1969, is hereby pre-published as required by sub-section (3) of section 199 of the Goa Land Revenue Code, 1968 (Act 9 of 1969), for information of the persons likely to be affected thereby and notice is hereby given that the said draft amendment will be taken into consideration by the Government on the expiry of fifteen days from the date of publication of this Notification in the Official Gazette.

All objections and suggestions to the said draft amendment may be forwarded to the Under Secretary to the Government of Goa, Revenue Department, Secretariat, Panaji, before the expiry of fifteen days from the date of publication of this Notification in the Official Gazette.

#### DRAFT AMENDMENT

In exercise of the powers conferred by sub-section (2) of section 199 of the Goa Land Revenue Code, 1968 (Act 9 of 1969), and all other powers enabling it in that behalf, the Government of Goa hereby makes the following rules so as to further amend the Goa, Daman and Diu Land Revenue (Assessment and Settlement of Land Revenue of Agricultural Lands) Rules, 1969, namely:—

1. *Short title and commencement.*— (1) These rules may be called the Goa Land Revenue (Assessment and Settlement of Land Revenue of Agricultural Lands) (Amendment) Rules, 1995.

(2) They shall come into force at once.

2. *Amendment of rule 9.*— In rule 9 of the Goa, Daman and Diu Land Revenue (Assessment and Settlement of Land Revenue of Agricultural Lands) Rules, 1969, the words "to the Director who shall send them with his own remarks" shall be omitted.

By order and in the name of the Governor of Goa.

E. A. Cardozo, Under Secretary (Revenue)

Panaji, 10th July, 1995.

#### LEGISLATURE SECRETARIAT

LA/B/1975/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 27-7-95 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji 28th July, 1995.

### The Goa Land (Prohibition on Construction) Bill, 1995

(Bill No. 23 of 1995)

A

#### BILL

*to provide for prohibition on construction of a building, structure, etc. on certain lands in the State of Goa.*

Be it enacted by the Legislative Assembly of Goa in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Land (Prohibition on Construction) Act, 1995.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. *Interpretation.*— Unless there is anything repugnant in the subject or context, the words and expressions used in this Act shall have the same meaning as assigned to them in the Goa, Daman and Diu Municipalities Act, 1968 (Act 7 of 1969), the Goa Panchayat Raj Act, 1994 (Act 14 of 1994) and the Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975).

3. *The provision of this Act to be in addition to any other law for the time being in force.*— Nothing in this Act shall be deemed to affect the operation of any other law and the provisions of this Act shall be in addition to and not in derogation of the provisions of such other law.

**4. Restriction on construction on certain lands.** — No person shall on and from the date of commencement of this Act, undertake any work of construction of any structure, building, hut or other structure or any part thereof on any land belonging to the Government, a local authority or a Comunidade except under the authority of written permission granted by the concerned authority.

**Explanation.** — (1) 'Comunidade' means the Comunidade established under the Diploma Legislative No. 2070 dated 15-4-1961.

(2) Any construction intended for temporary use of not more than fifteen days in connection with any festivities or religious activities shall not be deemed to be a construction for the purpose of this section.

**5. Penalty.** — (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, whoever contravenes the provisions of section 4 shall, on conviction, be punished with imprisonment which may extend to three months or with fine which may extend to Rs. 2000/- or with both.

(2) An offence under this section shall be cognizable.

**6. The local authority may remove any unauthorised temporary buildings work.** — (1) The local authority of the area or such authority as specified by the Government in this behalf, may remove or cause to be removed any construction done in contravention of section 4.

(2) All reasonable expenditure incurred by the local authority or such authority as duly authorised by the Government under sub-section (1), shall be recoverable as arrears of land revenue under the law for the time being in force.

**7. Bar on legal proceedings.** — No suit or legal proceeding shall be instituted against the local authority or any officer as duly authorised by the Government in this behalf, in respect of any act in good faith done or intended to be done in pursuance of the provisions of this Act.

#### Statement of Objects and Reasons

It has been observed that unauthorised constructions are normally undertaken on land belonging to the Government, local bodies and Comunidades. The normal procedure as laid down in laws governing constructions for removal of unauthorised constructions is time consuming and considerable time is spent in litigations. The result being unauthorised constructions remain and as time lapses the physical removal of such constructions becomes difficult.

It is, therefore, proposed to provide for summary removal of such constructions at the cost of the offender and also provide for punishment of offenders.

This Bill seeks to achieve the above object.

#### Financial Memorandum

There are no financial implications involved in implementation of the provisions of this Bill as the existing machinery would be authorised under the Act.

#### Memorandum regarding Delegated Legislation

Sub-section (1) of section 6 empowers the Government to confer power on any authority as to be specified thereunder for removal of any work or construction done in contravention of section 4.

This delegation is of normal character.

Panaji,  
27th July, 1995.

PRATAPSINGH RANE  
Chief Minister

Assembly Hall,  
27th July, 1995.

ASHOK B. ULMAN  
Secretary to the  
Legislative Assembly  
of Goa.

#### LAW (LEGAL & LEGISLATIVE AFFAIRS) DEPARTMENT

#### Notification

10-2-92/LA (Part)

The Code of Criminal Procedure (Amendment) Act, 1993 (Central Act 40 of 1993) which has been passed by Parliament and assented to by the President of India on 18-5-1993 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 18-5-1993, is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 1st November, 1993.

#### THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 1993

AN

ACT

*further to amend the Code of Criminal Procedure, 1973.*

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows: —

**1. Short title and commencement.** — (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1993.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Insertion of new Chapter VIIA.** — In the Code of Criminal Procedure, 1973, 2 of 1974, after Chapter VII, the following Chapter shall be inserted, namely: —

#### 'CHAPTER VIIA

Reciprocal Arrangements for Assistance in certain matters and procedure for attachment and forfeiture of property

**105A. Definitions.** — In this Chapter, unless the context otherwise requires, —

(a) "contracting State" means any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise;

(b) "identifying" includes establishment of a proof that the property was derived from, or used in the commission of an offence;

(c) "proceeds of crime" means any property derived or obtained directly or indirectly, by any person as a result of criminal activity (including crime involving currency transfers) or the value of any such property;

(d) "property" means property and assets of every description whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets derived or used in the commission of an offence and includes property obtained through proceeds of crime;

(e) "tracing" means determining the nature, source, disposition, movement, title or ownership of property.

105B. *Assistance in securing transfer of persons.* — (1) Where a Court in India, in relation to a criminal matter, desires that a warrant for arrest of any person to attend or produce a document or other thing issued by it shall be executed in any place in a contracting State, it shall send such warrant in duplicate in such form to such Court, Judge or Magistrate through such authority, as the Central Government may, by notification, specify in this behalf and that Court, Judge or Magistrate, as the case may be, shall cause the same to be executed.

(2) Notwithstanding anything contained in this Code, if, in the course of an investigation or any inquiry into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that the attendance of a person who is in any place in a contracting State is required in connection with such investigation or inquiry and the Court is satisfied that such attendance is so required, it shall issue a summons or warrant, in duplicate, against the said person to such Court, Judge or Magistrate, in such form as the Central Government may, by notification, specify in this behalf, to cause the same to be served or executed.

(3) Where a Court in India, in relation to a criminal matter, has received a warrant for arrest of any person requiring him to attend or attend and produce a document or other thing in that Court or before any other investigating agency, issued by a Court, Judge or Magistrate in a contracting State, the same shall be executed as if it is the warrant received by it from another Court in India for execution within its local limits.

(4) Where a person transferred to a contracting State pursuant to sub-section (3) is a prisoner in India, the Court in India or the Central Government may impose such conditions as that Court or Government deems fit.

(5) Where the person transferred to India pursuant to sub-section (1) or sub-section (2) is a prisoner in a contracting State, the Court in India shall ensure that the conditions subject to which the prisoner is transferred to India are complied with and such prisoner shall be kept in such

custody subject to such conditions as the Central Government may direct in writing.

105C. *Assistance in relation to orders of attachment or forfeiture of property.* — (1) Where a Court in India has reasonable grounds to believe that any property obtained by any person is derived or obtained, directly or indirectly, by such person from the commission of an offence, it may make an order of attachment or forfeiture of such property, as it may deem fit under the provisions of sections 105D to 105J (both inclusive).

(2) Where the Court has made an order for attachment or forfeiture of any property under sub-section (1) and such property is suspected to be in a contracting State, the Court may issue a letter of request to a Court or an authority in the contracting State for execution of such order.

(3) Where a letter of request is received by the Central Government from a Court or an authority in a contracting State requesting attachment or forfeiture of the property in India, derived or obtained, directly or indirectly, by any person from the commission of an offence committed in that contracting State, the Central Government may forward such letter of request to the Court, as it thinks fit, for execution in accordance with the provisions of sections 105D to 105J (both inclusive) or, as the case may be, any other law for the time being in force.

105D. *Identifying unlawfully acquired property.* — (1) The Court shall, under sub-section (1), or on receipt of a letter of request under sub-section (3) of section 105C, direct any police officer not below the rank of Sub-Inspector of Police to take all steps necessary for tracing and identifying such property.

(2) The steps referred to in sub-section (1) may include any inquiry, investigation or survey in respect of any person, place, property, assets, documents, books of account in any bank or public financial institutions or any other relevant matters.

(3) Any inquiry, investigation or survey referred to in sub-section (2) shall be carried out by an officer mentioned in sub-section (1) in accordance with such directions issued by the said Court in this behalf.

105E. *Seizure or attachment of property.* — (1) Where any officer conducting an inquiry or investigation under section 105D has a reason to believe that any property in relation to which such inquiry or investigation is being conducted is likely to be concealed, transferred or dealt with in any manner which will result in disposal of such property, he may, make, an order for seizing such property and where it is not practicable to seize such property, he may make an order of attachment directing that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, and a copy of such order shall be served on the person concerned.

(2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the said Court, within a period of thirty days of its being made.

**105F. Management of properties seized or forfeited under this Chapter.**—(1) The Court may appoint the District Magistrate of the area where the property is situated, or any other officer that may be nominated by the District Magistrate, to perform the functions of an Administrator of such property.

(2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which the order has been made under sub-section (1) of section 105E or under section 105H in such manner and subject to such conditions as may be specified by the Central Government.

(3) The Administrator shall also take such measures, as the Central Government may direct, to dispose of the property which is forfeited to the Central Government.

**105G. Notice of forfeiture of property.**—(1) If as a result of the inquiry, investigation or survey under section 105D, the Court has reason to believe that all or any of such properties are proceeds of crime, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon him within a period of thirty days specified in the notice to indicate the source of income, earnings or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties as the case may be, should not be declared to be proceeds of crime and forfeited to the Central Government.

(2) Where a notice under sub-section (1) to any person specifies any property as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person.

**105H. Forfeiture of property in certain cases.**—(1) The Court may, after considering the explanation, if any, to the show-cause notice issued under section 105G and the material available before it and after giving to the person affected (and in a case where the person affected holds any property specified in the notice through any other person, to such other person also) a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are proceeds of crime:

Provided that if the person affected (and in a case where the person affected holds any property specified in the notice through any other person such other person also) does not appear before the Court or represent his case before it within a period of thirty days specified in the show-cause notice, the Court may proceed to record a finding under this sub-section *ex parte* on the basis of evidence available before it.

(2) Where the Court is satisfied that some of the properties referred to in the show-cause notice are proceeds of crime but it is not possible to identify specifically such properties, then, it shall be lawful for the Court to specify the properties

which, to the best of its judgment, are proceeds of crime and record a finding accordingly under sub-section (1).

(3) Where the Court records a finding under this section to the effect that any property is proceeds of crime, such property shall stand forfeited to the Central Government free from all encumbrances.

(4) Where any shares in a company stand forfeited to the Central Government under this section, then, the company shall, notwithstanding anything contained in the Companies Act, 1956 or the articles of association of the company, forthwith register the Central Government as the transferee of such shares.

**105I. Fine in lieu of forfeiture.**—(1) Where the Court makes a declaration that any property stands forfeited to the Central Government under section 105H and it is a case where the source of only a part of such property has not been proved to the satisfaction of the Court, it shall make an order giving an option to the person affected to pay, in lieu of forfeiture, a fine equal to the market value of such part.

(2) Before making an order imposing a fine under sub-section (1), the person affected shall be given a reasonable opportunity of being heard.

(3) Where the person affected pays the fine due under sub-section (1), within such time as may be allowed in that behalf, the Court may, by order, revoke the declaration of forfeiture under section 105H and thereupon such property shall stand released.

**105J. Certain transfers to be null and void.**—Where after the making of an order under sub-section (1) of section 105E or the issue of a notice under section 105G, any property referred to in the said order or notice is transferred by any mode whatsoever such transfers shall, for the purposes of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited to the Central Government under section 105H, then, the transfer of such property shall be deemed to be null and void.

**105K. Procedure in respect of letter of request.**—Every letter of request, summons or warrant, received by the Central Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Chapter shall be transmitted to a contracting State or, as the case may be, sent to the concerned Court in India in such form and in such manner as the Central Government may, by notification, specify in this behalf.

**105L. Application of this Chapter.**—The Central Government may, by notification in the Official Gazette, direct that the application of this Chapter in relation to a contracting State with which reciprocal arrangements have been made, shall be subject to such conditions, exceptions or qualifications as are specified in the said notification.